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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,336	11/19/2001	Takaya Nonomura	042206	8557
38834	7590	03/23/2007	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP			CHOWDHURY, SUMAIYA A	
1250 CONNECTICUT AVENUE, NW			ART UNIT	PAPER NUMBER
SUITE 700			2623	
WASHINGTON, DC 20036				

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/988,336	NONOMURA, TAKAYA
	Examiner Sumaiya A. Chowdhury	Art Unit 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 January 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 and 11-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 and 11-25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/31/07 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1-5, and 11-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-5 and 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau (5565909) in view of Zigmond (6698020).

As for claim 1, Thibadeau discloses a digital broadcasting receiving device with an advertising information outputting function, comprising:

a receiver for receiving a digital broadcasting wave - col. 7, lines 35-51, col. 5, lines 28-40;

video/audio output means (television) for outputting at least one of video and audio (The television outputs the TV program on the display screen);

means (data processor) for taking out advertising information and advertising area information which are carried on the digital broadcasting wave – col. 11, lines 32-47, col. 20, lines 55-60, col. 8, lines 8-12;

means (either user or gps) for outputting information related to the current position – (The user could manually enter in location data, or the location data could be received by use of a dynamic GPS; col. 20, lines 29-67);

selection means (processor) for selecting the advertising information by the contrast between the information related to the current position and the advertising area information – col. 20, lines 55-60, col. 11, lines 32-47, col. 13, lines 49-53, col. 10, lines 30-35; and

a controller (component within receiver) for feeding the selected advertising information to said video/audio output means at predetermined timing – (The advertisements are stored for later retrieval - col. 14, lines 43-53).

However, Thibadeau fails to disclose in the digital broadcasting receiving device with an advertising information outputting function, a digital broadcasting receiving device with an advertising information outputting function, comprising

judgment means for judging whether or not video and audio which are being currently outputted are a commercial (CM) appended to a program,

wherein said controller feeds to said video/audio output means the advertising information selected by the contrast between the information related to the current position and the advertising area information in response to said judgment means judging that the video and audio which are currently being outputted are a commercial.

In an analogous art, Zigmond teaches determining whether a commercial is appended to a program by detecting a triggering event (black screen). When it is determined that a commercial is indeed appended to a program, the video switch 68 replaces the commercial with a selected commercial (col. 8, lines 30-65). The commercial selected is selected based on the geographical location of the subscriber (col. 14, lines 48-54).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Thibadeau's invention to include the above mentioned limitation, as taught by Zigmond, in order to achieve targeted advertising geographically.

As for claim 2, Thibadeau discloses a digital broadcasting receiving device with an advertising information outputting function, comprising:

a first receiver (STB) for receiving a digital broadcasting wave – col. 7, lines 35-51, col. 5, lines 28-40;  
video/audio output means for outputting at least one of video and audio;

means for taking out advertising information and advertising area information which are carried on the digital broadcasting wave – col. 11, lines 32-47, col. 20, lines 55-60, col. 8, lines 8-12;

a second receiver (data processor associated with the set-top unit) for receiving a transmission wave on which information required to specify the current position is carried – col. 10, lines 25-28, col. 20, lines 29-67, col. 9, lines 30-37;

means for outputting information related to the current position on the basis of the information carried on said transmission wave – (The user could manually enter in location data, or the location data could be received by use of a dynamic GPS; col. 20, lines 29-67);

selection means for selecting the advertising information by the contrast between the information related to the current position and the advertising area information – col. 20, lines 55-60, col. 11, lines 32-47, col. 13, lines 49-53, col. 10, lines 30-35; and

a controller (component in STB that does the processing) for feeding the selected advertising information to said video/audio output means at predetermined timing – (The advertising information is stored for later retrieval - col. 14, lines 43-53).

However, Thibadeau fails to disclose in the digital broadcasting receiving device with an advertising information outputting function, a digital broadcasting receiving device with an advertising information outputting function, comprising judgment means for judging whether or not video and audio which are being currently outputted are a commercial (CM) appended to a program,

wherein said controller feeds to said video/audio output means the advertising information selected by the contrast between the information related to the current position and the advertising area information in response to said judgment means judging that the video and audio which are currently being outputted are a commercial.

In an analogous art, Zigmond teaches determining whether a commercial is appended to a program by detecting a triggering event (black screen). When it is determined that a commercial is indeed appended to a program, the video switch 68 replaces the commercial with a selected commercial (col. 8, lines 30-65). The commercial selected is selected based on the geographical location of the subscriber (col. 14, lines 48-54).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Thibadeau's invention to include the above mentioned limitation, as taught by Zigmond, in order to achieve targeted advertising geographically.

As for claims 3 and 4, Thibadeau and Zigmond disclose the claimed limitations. In particular, Thibadeau discloses in the digital broadcasting receiving device with an advertising information outputting function, a digital broadcasting receiving device with an advertising information outputting function, comprising:

a memory storing the advertising information and the advertising area information which are taken out of the digital broadcasting wave – col. 13, lines 34-50, col. 14, lines 17-21, lines 28-31, lines 43-45, lines 52, col. 4, lines 51-54;

said selection means being constructed such that the advertising information stored in said memory can be selected by the contrast between the information related to the current position and the advertising area information – col. 20, lines 55-60, col. 11, lines 32-47, col. 13, lines 49-53, col. 10, lines 30-35;

Claim 5 contains the limitations of claims 1 and 3, and is analyzed as previously discussed with respect to that claim.

As for claims 11-15, Thibadeau and Zigmond disclose the claimed limitations. In particular, Zigmond teaches the user is presented with advertisement to select from for display to the user (col. 9, lines 29-38).

As for claims 16-20, Thibadeau and Zigmond disclose the claimed limitations. In particular, Zigmond teaches at an appropriate time specified by encoded data, the advertisement insertion device interrupts the display of the video programming feed. – col. 7, lines 25-30

As for claims 21-25, Thibadeau and Zigmond disclose the claimed limitations. In particular, Zigmond discloses wherein two or more advertisements (menu; displays that advertising information exists) are displayed to the user from which the user selects one advertisement using the remote control (selection means) to be displayed on the television (video/output means) – col. 16, line 65 – col. 17, line 10.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAC

  
SCOTT E. BELIVEAU  
PRIMARY PATENT EXAMINER